

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHRISTOPHER CASTORINA and STEVEN MORSE,

Plaintiffs,

v.

SPIKE CABLE NETWORKS, INC., NETWORK
ENTERPRISES, MTV NETWORKS, VIACOM, INC.,
INDUSTRY ENTERTAINMENT, CBS CORPORATION,
ABC CORPORATIONS, 1-10 fictitious (corporations);
XYZ CORPORATIONS, 1-10 (fictitious corporations);
ABC TALENT AGENCIES (fictitious agencies);
XYZ TALENT AGENCIES, 1-10 (fictitious agencies);
TALENT AGENTS JOHN DOES 1-10 (fictitious agents);
TALENT AGENTS JANE DOES 1-10, (fictitious agents).

Defendants.
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Civil Case No:

2:10-CV-02954-JS –ARL

SUPPLEMENTAL DECLARATION OF ELIZABETH A. McNAMARA

I, Elizabeth A. McNamara, declare:

1. I am a partner in Davis Wright Tremaine LLP, counsel for Defendants Spike Cable Networks, Inc., MTV Networks, Network Enterprises, CBS Corporation, and Viacom Inc. (collectively, “Spike” or “Defendants”).

2. I make this supplemental declaration in further support of the Defendants’ motion to dismiss the Complaint for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure (the “Motion”), which was filed on September 3, 2010. This declaration annexes certain exhibits requested in the Court’s February 22, 2011 Order, asking Defendants to submit copies of the state court filings in the lawsuit concerning Spike’s television series *Pros vs. Joes* in the New York State Supreme Court.

3. Attached as Exhibit A is a true and correct copy of the Summons and Complaint filed in the action captioned *Tony DeRosa-Grund and Keystone Productions-QMA, Inc. v. Spike TV, My Entertainment Co., L.L.C. and Michael Yudin*, Index No. 602080/06 (filed June 13,

2006) (the “*DeRosa* Lawsuit”). (The *DeRosa* Lawsuit was removed to federal court on July 31, 2006 but was remanded by stipulation after it was revealed that complete diversity did not exist. I have not attached the removal papers since they are not relevant to this action.)

4. Attached as Exhibit B is a true and correct copy of the Verified Answer to the Complaint filed by the defendants in the *DeRosa* Lawsuit on August 17, 2006.

5. Thereafter, the parties to the *DeRosa* Lawsuit amicably resolved the matter and a Stipulation of Discontinuance of the action with prejudice was executed. Attached as Exhibit C is a true and correct copy of the Stipulation of Discontinuance in the *DeRosa* Lawsuit filed on December 1, 2006.

6. Attached as Exhibit D is a true and correct copy of the complaint filed on July 18, 2007 in the action captioned *Timmy Pino v. Viacom, Inc., MTV Networks, and Spike TV*, Civ. Action No. 07-3313 (AET/TJB) (D.N.J.) (without exhibits).

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1st day of March, 2011, at New York, New York.

/s/ Elizabeth A. McNamara
Elizabeth A. McNamara